

Message Text

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ACTION AF-10

INFO OCT-01 EUR-12 IO-13 ISO-00 SSO-00 INRE-00 NSCE-00

USIE-00 CIAE-00 DODE-00 PM-05 H-01 INR-07 L-03

NSAE-00 PA-01 PRS-01 SP-02 SS-15 HA-05 /076 W

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FM AMEMBASSY PRETORIA

TO SECSTATE WASHDC IMMEDIATE 9745

INFO AMCONSUL CAPE TOWN

AMCONSUL DURBAN

AMCONSUL JOHANNESBURG

AMEMBASSY GENEVA

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C O R R E C T E D C O P Y (PARA 4)

E.O. 11652: N/A

TAGS: PINT, PINS, SHUM, SF

SUBJECT: DEATH OF STEVE BIKO: DEC 1 INQUEST PROCEEDINGS

REF: PRETORIA 6492

1. SUMMARY: BIKO FAMILY COUNSEL PRESENTED FINAL ARGUMENT DEC. 1 AND SUBMITTED THAT SUFFICIENT CIRCUMSTANTIAL EVIDENCE HAD BEEN PRESENTED TO MAKE OUT A PRIMA FACIE CASE THAT SECURITY POLICE OFFICERS WERE RESPONSIBLE FOR BIKO'S DEATH. WHEN POLICE ATTORNEY VAN ROOYEN BEGAN HIS FINAL ARGUMENT FOLLOWING CONCLUSION OF KENTRIDGE'S SUMMATION, BIKO FAMILY AND OVER 90 PERCENT OF SPECTATORS WALKED OUT. END SUMMARY.

2. BIKO INQUEST DID NOT SIT ON AFTERNOON OF NOV. 30; FINAL ARGUMENT BEGAN MORNING DEC. 1. SIDNEY KENTRIDGE, ADVOCATE
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FOR BIKO FAMILY, TOLD COURT THAT IN TERMS OF INQUEST ACT, THE OBJECTIVE OF THE COURT WAS TO ASCERTAIN WHETHER, FROM THE EVIDENCE PRESENTED, A PRIMA FACIE CASE COULD BE MADE THAT SOME PERSON(S) WAS RESPONSIBLE FOR THE DEATH OF THE DECEASED.

3. KENTRIDGE TOLD COURT "OUR SUBMISSION IN SIMPLE SUMMARY

IS THAT MR. BIKO WAS ASSAULTED AND THAT IS HOW HIS BRAIN LESIONS WERE CAUSED. THE SECURITY POLICE DENY THAT HE WAS ASSULTED AND NOW APPEAR TO SUGGEST THAT HIS INJURY MAY HAVE BEEN ACCIDENTALLY CAUSED IN AN INCIDENT ON THE MORNING OF THE 7TH, IN WHICH MR. BIKO WAS SAID TO BE THE AGGRESSOR....THERE IS NO DIRECT EVIDENCE THAT NNY PARTICULAR SECURITY POLICEMEN ASSULTED BIKO. THE REASON FOR THE ABSENCE OF SUCH DIRECT EVIDENCE OR EYE WITNESS EVIDENCE....IS DUE TO THE FACT THAT SOME AT LEAST OF THE SECURITY POLICE HAVE CLOSED THEIR RANKS AND HAVE ENTERED INTO A CONSPIRACY OF SILENCE AS TO WHAT REALLY HAPPENED TO MR. BIKO." KENTRIDGE WENT ON TO SAY THAT CIRCUMSTANTIAL EVIDENCE WOULD BE CITED TO SHOW THAT ONE OR MORE OF THE POLICEMEN ASSAULTED BIKO DURING THE NIGHT OF SEP. 6 OR MORNING OF THE 7TH. KENTRIDGE TOLD THE COURT THAT FIVE CATAGORIES OF SUCH EVIDENCE HAD BEEN SUBMITTED: (1) THE TIME WHEN THE INJURIES WERE SUSTAINED; (2) FAILURE OF THE POLICE OFFICERS IN CHARGE OF BIKO DURING THE NIGHT OF SEP. 6-7 TO GIVE A TRUTHFUL ACCOUNT OF HOW HE RECEIVED HIS INJURIES; (3) FAILURE OF THE DOCTORS "TO SEE WHAT MUST OF NECESSITY HAVE BEEN VISIBLE TO THEM WHICH SHOWED THAT TO A GREATER OR LESSER EXTENT THEY TOO WERE DRAWN INTO THE CONSPIRACY OF SILENCE"; (4) THE BALANCE OF PROBABILITIES ON THE MEDICAL EVIDENCE THAT THE "SCUFFLE" ON THE MORNING OF SEP. 7TH COULD NOT HAVE CAUSED THE BRAIN INJURIES FOUND IN THE AUTOPSY; AND FINALLY; (5) THE CALLOUS TREATMENT OF MR. BIKO BY THE SECURITY LIMITED OFFICIAL USE

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POLICE.

4. AFTER THREE HOUR PRESENTATION, KENTRIDGE TOLD COURT "THE POLICE FELT CONFIDENT THEY COULD RELY UPON THE DOCTORS TO SUPPORT THEM. AND THEIR CONFIDENCE WAS JUSTIFIED, PERHAPS STRENGTHENED WHEREBY THEY, WITH GROSS IMPERTINENCE, PRESENTED TO THIS COURT A TOTALLY UNPLAUSIBLE ACCOUNT OF MR. BIKO'S DEATH, STARTING WITH A FANCIFUL DESCRIPTION OF A STRUGGLE VIOLENT IN THE EXTREME IN WHICH NO BLOW WAS STRUCK, A BIZARRE ACCOUNT OF AN ALLEGED SHAMMING WHEN TO ANY CANDID OBSERVER A MAN'S PROGRESS TO HIS DEATH WAS BEING SEEN AND DESCRIBED, AND ALL THE WHILE THE REFUSAL TO ACKNOWLEDGE THE HEAD INJURY. A COURT--INCLUDING AN INQUEST COURT--IS THE BRAKE UPON THE ABUSE OF POWER. IT MUST BE MADE KNOWN BY THIS COURT THAT THE PENALTY FOR FALSEHOOD CONTEMPTOUSLY FABRICATED IS NOT MERELY REBUKE OR REPRIMAND BUT A FIRM FINDING ADVERSE TO THE FABRICATORS; IF YOU CREATE A TISSUE OF LIES IT CAN ONLY BE THAT YOU DARE NOT SPEAK THE TRUTH....THIS INQUEST HAS EXPOSED GRAVE IRREGULARITY AND MISCONDUCT IN THE TREATMENT OF A SINGLE DETAINEE. IT HAS INCIDENTALLY REVEALED THE DANGERS TO LIFE AND LIBERTY INVOLVED IN THE SYSTEM OF HOLDING

DETAINEES INCOMMUNICADO. A FIRM AND CLEAR VERDICT MAY HELP PREVENT FURTHER ABUSE OF THE SYSTEM. IN THE LIGHT OF FURTHER DISQUIETING EVIDENCE BEFORE THIS COURT, ANY VERDICT WHICH CAN BE SEEN AS AN EXONERATION OF THE PORT ELIZABETH SECURITY POLICE WILL UNFORTUNATELY BE INTERPRETED AS A LICENSE TO ABUSE HELPLESS PEOPLE WITH IMPUNITY AND THIS COURT SHOULD NOT ALLOW THAT TO HAPPEN."

5. WHEN KENTRIDGE COMPLETED HIS PRESENTATION IN EARLY AFTER-NOON, MR. VAN ROOYEN, APPEARING FOR THE POLICE, BEGAN HIS FINAL ARGUMENT. AT THAT POINT, SEVERAL BLACK OBSERVERS IN THE GALLERY WALKED OUT, TO BE FOLLOWED BY THE BULK OF THE OTHER SPECTATORS, INCLUDING BIKO FAMILY. THIS WAS FIRST TIME IN 14 DAYS OF INQUEST PROCEEDINGS THAT THERE HAS LIMITED OFFICIAL USE

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BEEN SUCH PROTEST WALKOUT. ONE DEPARTING WHITE COMMENTED: "KENTRIDGE WAS BEAUTIFUL.....THAT IS ABOUT AS CLOSE TO THE TRUTH AS WE WILL EVER GET."

6. KENTRIDGE TOLD DCM AND EMBOFF, WHO WERE PRESENT FOR HIS FINAL ARGUMENT, THAT HE FULLY EXPECTS INQUEST PROCEEDINGS TO CONCLUDE TOMORROW, DECM 2, WITH RULING BY MAGISTRATE PRINS POSSIBLY NEXT WEEK.
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